

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #7	CCRB Case #: 201505682	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/09/2015 12:15 PM	Location of Incident: [REDACTED]	Precinct: 115	18 Mo. SOL 1/9/2017	EO SOL 1/9/2017	
Date/Time CV Reported Fri, 07/10/2015 2:52 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 07/10/2015 2:52 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Theodore Mitchell	16194	925757	115 PCT
2. POM Joseph Vitale	19831	953539	HWY DST

Officer(s)	Allegation	Investigator Recommendation
A.POM Theodore Mitchell	Discourtesy: PO Theodore Mitchell spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Joseph Vitale	Discourtesy: PO Joseph Vitale spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]

Case Summary

On July 9, 2015 at approximately 12:15 p.m., PO Joseph Vitale and PO Theodore Mitchell stopped § 87(2)(b)'s van on Astoria Boulevard at 88th Street in Queens to issue him a summons for talking on a cell phone while driving. The complainant, § 87(2)(b) was attempting to leave a nearby McDonald's, but the officers' car was blocking the driveway. § 87(2)(b) honked her horn, but the officers did not move their vehicle. She got out and took pictures of their car (see Board Review 01 and 02). PO Vitale and PO Mitchell got out of the car to issue § 87(2)(b) a summons. § 87(2)(b) asked the officers if they could move their car to give her room to get out. PO Mitchell allegedly said, "I'm doing something. Get the fuck out of here." (**Allegation A**). § 87(2)(b) got back in her car and drove around the police car, which required driving on the sidewalk. As she drove away, PO Vitale allegedly said, "Fuck you" to her (**Allegation B**).

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of October 20, 2015, § 87(2)(b) has not filed a notice of claim regarding this incident with the Comptroller's office (see Board Review 09).
- § 87(2)(b) has not been arrested in the City of New York in the past ten years. § 87(2)(b) does not have a NYSID, and an Office of Court Administration search for criminal convictions could therefore not be conducted.

Civilian and Officer CCRB Histories

- This is § 87(2)(b) first CCRB complaint (see Board Review 03).
- PO Mitchell has been a member of the NYPD for fifteen years and there are two prior CCRB complaints against him, neither of which was fully investigated. Case 201404726 included a discourteous action allegation, which was closed as complaint withdrawn.
- PO Vitale has been a member of the NYPD for three years. There is one prior CCRB complaint against him, 201300850, which included an unsubstantiated discourtesy allegation.

Potential Issues

- A number of irregularities with NYPD documents delayed the investigation of this case. The photos provided by § 87(2)(b) showed that the subject officers were in vehicle 3737, which belongs to the 115th Precinct. However, the relevant roll call from the 115th Precinct did not list any officer as using vehicle 3737 (see Board Review 13). The daily vehicle assignment sheet noted that vehicle 3737 was assigned to Summons Auto at the time of this incident (see Board Review 14), but no officers on the roll call were listed as being assigned to Summons Auto. Therefore, the investigation had to order a large number of memo books to identify the subject officers, causing a significant delay.

- § 87(2)(g), § 87(4-b)
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Findings and Recommendations

Allegation A – Discourtesy: PO Theodore Mitchell spoke discourteously to § 87(2)(b)

Allegation B – Discourtesy: PO Joseph Vitale spoke discourteously to § 87(2)(b)

§ 87(2)(b) said that she got out of her vehicle and politely asked the officers to move their car so she could get out the driveway. The passenger, identified as PO Mitchell, allegedly responded by saying, “I’m doing something. Get the fuck out of here.” As she drove around the officers’ car to get out of the driveway, the driver of the police car, identified as PO Vitale, allegedly said, “Fuck you” (see Board Review 04). In her online complaint, § 87(2)(b) also alleged that when she took pictures of the police car, PO Mitchell said, “Go ahead, take pictures. I don’t give a fuck” (see Board Review 05). She did not allege that particular statement in her in-person interview, which was otherwise consistent with her online complaint.

§ 87(2)(b) the man whose vehicle was stopped, confirmed that the officers blocked the driveway of a fast food restaurant when they stopped his van. He recalled a woman getting “extremely angry” and yelling at the officers. However, he was not sure what she said and did not know what, if anything, the officers said in response (see Board Review 06).

PO Mitchell denied that the police car was blocking the McDonald’s driveway and said other cars were getting out without difficulty. He said § 87(2)(b) honked at them while he was writing the summons. When he got out of the police car to give the summons to § 87(2)(b) § 87(2)(b) was outside her vehicle taking pictures of the police car. § 87(2)(b) said, “Why you blocking the driveway?” PO Mitchell said, “I’m doing a car stop” and it was “police business.” He did not say anything else to § 87(2)(b) who got in her car and yelled something out the window as she drove away. PO Vitale did not say anything to § 87(2)(b) PO Mitchell denied that he or PO Vitale used any obscenities toward § 87(2)(b) (see Board Review 07).

PO Vitale had no memory of this incident, but confirmed that he was working in vehicle 3737 with PO Mitchell on July 9, 2015 (see Board Review 08).

§ 87(2)(g), § 87(2)(b)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g) [Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad: 7

Investigator: _____ Craig Anderson _____
Signature Print Date

Squad Leader: _____ Diana Murray _____
Title/Signature Print Date

Attorney: _____ _____
Title/Signature Print Date